

Message Text

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TO SECSTATE WASHDC PRIORITY 4460
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C O N F I D E N T I A L SECTION 01 OF 03 OTTAWA 07449

EO 11652: GDS
TAGS: MILI, CA
SUBJECT: ARGENTIA "NORTH PROPERTIES"

REF: STATE 219

1. EXTERNAL AFFAIRS (UNDER COVER OF LETTER FROM A. MATHEWSON, DEFENCE RELATIONS DIVISION) HAS PROVIDED EMBASSY WITH A REVISED DRAFT EXCHANGE OF NOTES AND REVISED DRAFT ANNEX "C" CONCERNING THE PROPOSED AGREEMENT ON ARGENTIA "NORTH PROPERTIES". THE TEXTS FOLLOW.

2. THE TEXT OF THE COVERING LETTER IS AS FOLLOWING: BEGIN QUOTE. I REFER TO THE EMBASSY'S LETTER OF JANUARY 5, 1977, CONCERNING A PROPOSED AGREEMENT ON THE ARGENTIA "NORTH PROPERTIES". FOLLOWING CONSULTATIONS WITH THE AUTHORITIES OF THE PROVINCE OF NEWFOUNDLAND, THE GOVERNMENT OF CANADA HAS AGREED IN PRINCIPLE TO ACCEPT THE OFFER OF THE UNITED STATES TO TURN OVER TO A CANADIAN MANAGEMENT AUTHORITY THAT PART OF THE AREA OF THE US NAVAL STATION AT ARGENTIA, NEWFOUNDLAND, WHICH IS SURPLUS TO THE NEEDS OF THE UNITED STATES NAVY. THE GOVERNMENT HAS NOW AUTHORIZED THIS DEPARTMENT TO ENTER INTO NEGOTIATIONS WITH YOUR AUTHORITIES TO CONCLUDE A SUB-LEASE AGREEMENT IN ACCORDANCE WITH
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CONDITIONS PREVIOUSLY DISCUSSED AND AGREED TO INFORMALLY BY OFFICIALS OF OUR TWO GOVERNMENTS.

I ATTACH A DRAFT EXCHANGE OF NOTES, INCLUDING ANNEX "C", WHICH IS ESSENTIALLY A REWRITING OF THE ORIGINAL DRAFT AGREEMENT SENT TO US BY YOUR EMBASSY IN OCTOBER, 1973. WE HAVE TRIED TO INCLUDE IN THIS DRAFT ALL THOSE POINTS OF AGREEMENT WE HAVE REACHED ON AN AD HOC BASIS

OVER THE PAST FOUR YEARS. THESE INCLUDE, INTER ALIA, THE PROVISION IN PARAGRAPH ONE OF ANNEX "C" WITH RESPECT TO RE-ENTRY AND THE REFERENCE IN PARAGRAPH 10 TO THE CONTINUED CONTROL OF ACCESS TO ADJACENT WATERS BY THE UNITED STATES.

WE HAVE NOT ATTEMPTED TO RE-DRAFT ANNEXES "A", "B", "D" AND "E", BUT THESE WILL OBVIOUSLY REQUIRE REVISION IN VIEW OF THE DEVELOPMENTS OF THE LAST FOUR YEARS. FOR EXAMPLE:

ANNEX "A" SHOULD CONSIST OF A DETAILED LEGAL DESCRIPTION OF THE AREA TO BE SUB-LEASED, INCLUDING THE NEW AREAS AND WATERS DESCRIBED IN OUR LETTER OF DECEMBER 7, 1976 (FOLLOWING OUR CONVERSATIONS WITH MR. NEF OF OCTOBER 21, 1976);

ANNEX "B" CONSISTS, WE UNDERSTAND, OF THE CHARTS SENT TO US EARLIER THIS YEAR (SEE MR. NEF'S LETTER OF JANUARY 5). WE SUGGEST THESE CHARTS BE REVIEWED ONCE MORE BY THE AUTHORITIES CONCERNED SO THAT "FAIR COPIES" MIGHT BE APPENDED AT THE TIME THE AGREEMENT IS CONCLUDED.

ANNEX "D" PROVIDES SPECIFICATIONS FOR THE SECURITY FENCE REFERRED TO IN PARAGRAPH 7 OF ANNEX "C". SINCE THIS FENCE WILL NOW BE MUCH SHORTER THAN ORIGINALLY PROPOSED, THE ANNEX SHOULD BE AMENDED ACCORDINGLY. ALTERNATIVELY, YOU MAY WISH TO CONSIDER DELETING THIS ANNEX AND AMENDING PARAGRAPH 7 OF ANNEX "C" ACCORDINGLY.

ANNEX "E" WAS ORIGINALLY A LIST OF EXISTING FACILITIES. THIS LIST MAY NO LONGER BE NECESSARY IN VIEW OF THE CONFIDENTIAL

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FACT THAT IT HAS BEEN AGREED INFORMALLY THAT CANADA WILL NOT BE RESPONSIBLE FOR THE CONDITION OF EXISTING BUILDINGS AND FACILITIES. IT WILL, HOWEVER, BE NECESSARY TO SPELL OUT THE MEANS WHEREBY PARAGRAPHS 2 AND 5 ARE TO BE IMPLEMENTED WITH RESPECT TO THE MAINTENANCE OF THE AIRFIELD RUNWAY AND ACCESS TO FUEL STORAGE TANKS. THIS ANNEX MIGHT, THEREFORE, ADDRESS ITSELF TO HEIGHT RESTRICTIONS ON BUILDINGS, A PLAN OF THE RUNWAYS, IDENTIFICATION OF THE FUEL TANKS TO BE RETAINED, ETC.

WE SHOULD BE GRATEFUL IF YOU WOULD SEEK THE VIEWS OF YOUR AUTHORITIES WITH RESPECT TO THE REVISED DRAFT TEXT OF THIS EXCHANGE OF NOTES, AND ADVISE US OF ANY PROPOSED AMENDMENTS AT YOUR EARLIEST CONVENIENCE. END QUOTE.

3. THE TEXT OF DRAFT NOTE FROM U.S. EMBASSY TO SSEA IS AS FOLLOWS: BEGIN QUOTE. NOTE FROM USA EMBASSY TO SSEA SIR, I HAVE THE HONOUR TO REFER TO RECENT DISCUSSIONS BETWEEN OFFICIALS OF THE EMBASSY AND YOUR DEPARTMENT CONCERNING COMMERCIAL DEVELOPMENT OF AN AREA OF THE UNITED STATES NAVAL STATION, ARGENTIA, NEWFOUNDLAND. THE STATION IS LEASED BY THE UNITED STATES GOVERNMENT UNDER THE LEASED NAVAL AND AIR BASES AGREEMENT OF MARCH 27, 1941, AS

AMENDED. THE UNITED STATES GOVERNMENT PROPOSES THAT THE GOVERNMENT OF CANADA SUB-LEASE AND OCCUPY THE AREA OF THE UNITED STATES NAVAL STATION, DESCRIBED IN ANNEX A AND DEPICTED IN ANNEX B OF THIS NOTE, FOR COMMERCIAL AND OTHER PURPOSES, FOR AND DURING THE TERM OF (BLANK) YEARS, COMMENCING ON THE (BLANK) DAY OF (BLANK), 19(BLANK) AND CONTINUING UP TO AND INCLUDING THE 25TH DAY OF MARCH, 2040, SUBJECT HOWEVER, TO THE TERMS AND CONDITIONS SET FORTH IN ANNEX C.

I HAVE FURTHER THE HONOUR TO PROPOSE THAT, IF THE

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INFO AMCONSUL HALIFAX

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ARRANGEMENTS OUTLINED IN THIS NOTE WITH ITS ATTACHED ANNEXES A, B, C, D AND E ARE ACCEPTABLE TO YOUR GOVERNMENT, THIS NOTE TOGETHER WITH ITS ANNEXES, AND YOUR REPLY TO THAT EFFECT SHALL CONSTITUTE AN AGREEMENT BETWEEN OUR TWO GOVERNMENTS WHICH SHALL ENTER INTO FORCE ON THE DATE OF YOUR REPLY. END QUOTE.

4. THE TEXT OF DRAFT NOTE FROM SSEA TO U.S. EMBASSY IS AS FOLLOWS: BEGIN QUOTE. EXCELLENCY, I HAVE THE HONOUR TO REFER TO YOUR NOTE OF (BLANK) PROPOSING THAT THE GOVERNMENT OF CANADA ASSUME RESPONSIBILITY FOR AND THAT HER MAJESTY IN RIGHT OF CANADA SUBLEASE AND OCCUPY THE AREA OF THE UNITED STATES NAVAL STATION, ARGENTIA, DESCRIBED GENERALLY IN ANNEX A AND DEPICTED IN ANNEX B, FOR COMMERCIAL AND OTHER PURPOSES, FOR AND DURING THE TERM OF AND CONTINUING UP TO AND INCLUDING THE 25TH DAY OF MARCH, 2040, SUBJECT, HOWEVER, TO THE TERMS AND CONDITIONS SET FORTH IN ANNEX C.

I HAVE THE HONOUR TO STATE THAT THE GOVERNMENT OF

CANADA ACCEPTS THE PROPOSALS SET OUT IN YOUR NOTE AND AGREES THAT YOUR NOTE TOGETHER WITH ANNEXES A, B, C, D AND E AND THIS REPLY THERETO, WHICH IS AUTHENTIC IN ENGLISH AND FRENCH, SHALL CONSTITUTE AN AGREEMENT BETWEEN OUR TWO
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GOVERNMENTS REGARDING THIS MATTER, WHICH SHALL ENTER INTO FORCE ON THE DATE OF THIS REPLY. END QUOTE.

5. THE TEXT OF DRAFT ANNEX "C" IS AS FOLLOWS: BEGIN QUOTE.
ANNEX C (HEREINAFTER, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CANADA", MEANS THE GOVERNMENT OF CANADA, "UNITED STATES" MEANS THE GOVERNMENT OF THE UNITED STATES OF AMERICA, 'HER MAJESTY' MEANS HER MAJESTY THE QUEEN IN RIGHT OF CANADA AND "THE MANAGEMENT AUTHORITY" MEANS THAT AUTHORITY DESIGNATED BY THE GOVERNMENT OF CANADA TO MANAGE, IN WHOLE OR IN PART, THE AREA COVERED BY THIS AGREEMENT)

1. THE UNITED STATES AGREES TO SUBLEASE TO HER MAJESTY THAT PART OF THE AREA OF THE UNITED STATES NAVAL STATION, ARGENTIA DESCRIBED IN ANNEX A AND DEPICTED IN ANNEX B (HEREINAFTER CALLED "THE MANAGEMENT AREA"), ON CONDITION THAT THE UNITED STATES MAY RESUME FULL AND EXCLUSIVE OCCUPANCY OF THE WHOLE OR SUCH PART THEREOF, AS THE CASE * MAY BE, IMMEDIATELY IN THE EVENT OF WAR, NATIONAL EMERGENCY AND OTHERWISE AS MUTUALLY AGREED UPON. UPON SUCH RE-ENTRY, THE UNITED STATES SHALL HAVE, DURING THE BALANCE OF THE TERM OF THE LEASE UNDER THE LEASED NAVAL AND AIR BASES AGREEMENT OF MARCH 27, 1941, AS AMENDED, (HEREINAFTER CALLED, RESPECTIVELY, "THE HEADLEASE" AND "THE 1941 AGREEMENT"), THE RIGHT TO ANY AND ALL ACCRETIONS TO THE WHOLE OR ANY PART OF THE MANAGEMENT AREA RE-OCCUPIED BY THE UNITED STATES, AND SHALL, DURING THE BALANCE OF THE TERM OF THE HEADLEASE, ACCEDE TO THE OWNERSHIP OF ANY PERMANENT IMPROVEMENTS WITHIN THE MANAGEMENT AREA OR PART THEREOF RE-OCCUPIED BY THE UNITED STATES.

2. THE UNITED STATES RESERVES THE RIGHT OF ACCESS TO THE MANAGEMENT AREA UPON REASONABLE NOTICE. THE UNITED STATES SHALL HAVE THE RIGHT TO THE USE OF WHARVES IN THE SUBLEASED AREA, FREE OF CHARGE, FOR THE LOADING AND UNLOADING
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OF SHIPS IN SUPPORT OF THE NAVAL STATION. SUCH USE WILL BE SUBJECT TO THE PROVISIONS OF PARAGRAPH 12 OF THIS ANNEX.

3. CANADA WILL FROM TIME TO TIME DESIGNATE TO THE UNITED STATES IN WRITING A MANAGEMENT AUTHORITY RESPONSIBLE IN

FULL OR IN PART FOR THE ADMINISTRATION OF THIS AGREEMENT
AND HER MAJESTY'S SUBLEASE.

4. CANADA WILL ENSURE THAT ANY SUBLESSEE OF HER MAJESTY OF
THE WHOLE OR ANY PART OF THE MANAGEMENT AREA DOES NOT
INTERFERE WITH THE ACTIVITIES, INCLUDING COMMUNICATIONS,
OF THE UNITED STATES AT THE UNITED STATES NAVAL STATION,
ARGENTIA (HEREINAFTER CALLED "THE BASE"), OR WITH THE
SECURITY OF THOSE ACTIVITIES. TO THIS LIMITED END, THE
MANAGEMENT AUTHORITY WILL FORWARD ALL APPLICATIONS FOR SUB-
LEASES TO THE COMMANDING OFFICER OF THE BASE WHO WILL
PROVIDE FINDINGS AND RECOMMENDATIONS TO THE MANAGEMENT
OF ANY PROSPECTIVE SUBLESSEE OF HER MAJESTY. A RECOMMEND-
ATION THAT A SUBLEASE SHOULD NOT BE GRANTED ON THE GROUNDS
OF SECURITY OR INTERFERENCE SHALL BE BINDING UPON CANADA.

5. THE MANAGEMENT AUTHORITY MAY, DURING THE TERM OF HER
MAJESTY'S SUBLEASE ERECT OR CONSTRUCT OR AUTHORIZE THE
MENTS WITHIN THE MANAGEMENT AREA. ANY BUILDINGS SO
ERECTED OR CONSTRUCTED OR SO AUTHORIZED MAY BE REMOVED BY
THE MANAGEMENT AUTHORITY AT ANY TIME DURING THE SAID TERM
AND, IN THE EVENT OF A DETERMINATION UNDER PARAGRAPH 1 OF
THIS ANNEX, WITHIN A REASONABLE TIME AFTER SUCH DETERMIN-
ATION. NO NEW CONSTRUCTION OR MODIFICATION OF EXISTING " "
STRUCTURES SHALL BE CARRIED OUT IN SUCH A WAY AS TO PRE-
CLUDE THE USE OF THE AIRFIELD RUNWAY IN THE EVENT OF A
DETERMINATION TO RE-ENTER UNDER PARAGRAPH 1 OF THIS ANNEX.

6. THIS AGREEMENT DOES NOT CREATE OR RECOGNIZE ANY
LICENSES, EASEMENTS OR RIGHTS OF WAY OUTSIDE THE MANAGEMENT
AREA WHICH ARE NOT EXPRESSLY STATED IN THIS AGREEMENT.
LICENSES, EASEMENTS OR RIGHTS OF WAY OUTSIDE THE MANAGEMENT
AREA MAY BE CREATED BY LOCAL AGREEMENT BETWEEN THE
COMMANDING OFFICER OF THE BASE AND THE MANAGEMENT AUTHORITY
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LOCAL AGREEMENTS RESPECTING UTILITIES, THE ELECTRICAL

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SYSTEM, FIRE PROTECTION AND OTHER SERVICES AND MATTERS RELATED OR INCIDENTAL THERETO MAY BE ENTERED INTO BETWEEN THE COMMANDING OFFICER OF THE BASE AND THE MANAGEMENT AUTHORITY. ALL SUCH LICENSES, EASEMENTS, RIGHTS OF WAY OR OTHER LOCAL AGREEMENTS SHALL BE SUBJECT TO PARAGRAPH 1 OF THIS ANNEX.

7. THE MANAGEMENT AUTHORITY WILL BE RESPONSIBLE FOR THE CONSTRUCTION AND MAINTENANCE OF THE SECURITY FENCE, AS OUTLINED IN ANNEX B, IN ACCORDANCE WITH THE SPECIFICATIONS THEREFOR SET FORTH IN ANNEX D. THE MANAGEMENT AUTHORITY WILL TAKE SUCH OTHER MEASURES AS MAY BE NECESSARY TO PREVENT UNAUTHORIZED ACCESS FROM THE MANAGEMENT AREA TO THAT PART OF THE BASE NOT WITHIN THE MANAGEMENT AREA.

8. CANADA WILL ACCEPT THE MANAGEMENT AREA AS IS, WILL WAIVE ANY CAUSE OF ACTION THAT MIGHT OTHERWISE EXIST AGAINST THE UNITED STATES, ITS AGENTS, SERVANTS OR EMPLOYEES BY REASON OF ANY PATENT OR LATENT CONDITION OF THE MANAGEMENT AREA, ANY PART THEREOF OR EQUIPMENT OR OBJECT THEREON; AND WILL INDEMNIFY AND HOLD HARMLESS THE UNITED STATES, ITS AGENTS, SERVANTS OR EMPLOYEES WITH RESPECT TO ANY CLAIMS THAT MAY ARISE OUT OF THE USE OF THE MANAGEMENT AREA BY HER MAJESTY, HER AGENTS, EMPLOYEES OR SUB-LESSEES.

9. THE UNITED STATES GOVERNMENT WILL INCUR NO TAX LIABILITY FROM ANY ACTIVITIES WITHIN THE MANAGEMENT AREA.

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10. THE UNITED STATES WILL CONTINUE TO CONTROL ACCESS TO AND USAGE OF THE WATERS ADJACENT TO, OR IN THE VICINITY OF, THE LEASED AREA, AS THOSE WATERS ARE DELIMITED IN THE EXCHANGE OF NOTES SIGNED AUGUST 13 AND OCTOBER 23, 1947, DESCRIPTION OF THE SUB-LEASED AREA SET OUT IN ANNEX A AND OUTLINED IN ANNEX B. CONTROL OVER THAT PORTION OF THE WATERS DESCRIBED IN ANNEX A AND OUTLINED IN ANNEX B WILL BE EXERCISED BY THE MANAGEMENT AUTHORITIES AS FAR AS IS NECESSARY FOR SAFETY AND EFFICIENT OPERATION OF THE MANAGED AREA, ANCHORAGES, MOORINGS AND MOVEMENTS OF SHIPS AND

11. SUBJECT TO PARAGRAPH 12 OF THIS ANNEX, THE PROVISIONS OF THE 1941 AGREEMENT SHALL NOT APPLY TO THE MANAGEMENT AREA WHILE HER MAJESTY'S SUBLEASE IS IN SUBSISTENCE; INSTEAD THE MANAGEMENT AREA SHALL BE CONSIDERED AS IF IT WAS NOT PART OF THE AREA LEASED TO THE UNITED STATES UNDER

THE 1941 AGREEMENT.

12. IN THE EVENT OF RE-ENTRY BY THE UNITED STATES PURSUANT TO PARAGRAPH 1 OF THIS ANNEX THE PROVISIONS OF PARAGRAPH 11 UNITED STATES USES, PURSUANT TO PARAGRAPH 2 OF THIS ANNEX, THE WHARVES LOCATED IN THE MANAGEMENT AREA, THEN WITH RESPECT TO THE WHARVES SO USED AND FOR AS LONG AS THE UNITED STATES USES SUCH WHARVES AND FOR THE PURPOSE OF ALLOWING THE UNITED STATES THE UNIMPEDED USE OF SUCH WHARVES, THE PROVISIONS OF THE 1941 AGREEMENT SHALL APPLY TO THE WHARVES SO USED.

13. ALL SUBLEASES, GRANTED BY HER MAJESTY OF THE WHOLE OR ANY PART OF THE MANAGEMENT AREA, SHALL CONTAIN A PROVISION TO THE EFFECT THAT THE SAME ARE ISSUED SUBJECT TO THE PROVISIONS OF THIS AGREEMENT, INCLUDING THE RIGHT OF TERMINATION SET FORTH IN PARAGRAPH 1.

14. THIS AGREEMENT AND THE SUBLEASE OF HER MAJESTY SHALL BE FREE FROM THE PAYMENT OF ALL RENT AND CHARGES OTHER THAN THE COMPENSATION MENTIONED IN PARAGRAPH 8.
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15. SUBJECT TO THE PROVISIONS OF PARAGRAPH 1 OF THIS ANNEX THE GOVERNMENT OF THE UNITED STATES COVENANTS WITH THE GOVERNMENT OF CANADA FOR THE QUIET ENJOYMENT OF THE MANAGEMENT AREA. END QUOTE.

6. FOR DEPARTMENT'S INFORMATION: THE LETTER OF JANUARY 5, 1977, REFERRED TO IN PARAGRAPH 2 OF THIS TELEGRAM TRANSMITTED THE POINTS AND CLARIFICATIONS CONTAINED IN REFTEL.
ENDERS

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